

SUMMARY

Monday, August 15, 2005



Homes and Restaurants Workgroup Meeting

Held: July 27, 2005

Meeting Location/Address:

NJDEP Headquarters Building, 401 E. State St., Trenton, NJ

Meeting called by: Ray Papalski

Co-Facilitators: Sandra Cohen, Laura Scatena

Attendees:

State Team Members:

1. Ray Papalski, Workgroup Leader, New Jersey Department of Environmental Protection (NJDEP), Division of Air Quality Planning (DAQ), Bureau of Air Quality Planning (BAQP)
2. Sandra Cohen, Co-Facilitator, NJDEP DAQ BAQP
3. Laura Scatena, Co-Facilitator, NJDEP DAQ BAQP
4. Frank Matula, NJDEP, DAQ, Bureau of Technical Services

Participants:

1. Mohammad Ali, New Jersey Department of Agriculture (DOA)
2. Adeline Arnold, Aberdeen Township Environmental and Shade Tree Advisory Board (by phone)
3. Kenneth Fradkin, USEPA Region 2 (by phone)
4. Anne Leimbach, Mid-Atlantic Hearth, Patio & Barbecue Association (HPBA) (by phone)
5. Gabriella Munoz, NY Academy of Sciences (by phone)
6. Deborah Pinto, NJDEP
7. Dawn Prandi, Somerset County Health Department
8. Kety Rosario, NJDEP DCE
9. Arnold Schmidt, Union County Health Department
10. Chris Shaffery, White Castle
11. Rich Vaccaro, Madison-Vector
12. Jerry Woodward, Hearth and Home Technologies (by phone)

Materials:

1. Name tag (*Please bring to the next meeting*)
2. Attendance sign-in sheet
3. Last meeting summary (7-13-05), pdf file available at http://www.nj.gov/dep/airworkgroups/home_restaurant_workgroup.html
4. Agenda, pdf file available at http://www.nj.gov/dep/airworkgroups/home_restaurant_workgroup.html
5. New Jersey's Air Pollution Control Act (26:2C-22.Relation of local ordinances or regulations to State law), full version at <http://www.nj.gov/dep/enforcement/apca.html>

Introduction/Announcements

- Since the meeting also incorporated a conference call for those who could not be in Trenton, all participants introduced themselves.
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Overview

- No one provided additions/corrections on the minutes of the previous meeting or on the current agenda.
 - Assignment status: This will be discussed at the Wrap-up meeting (the last meeting on Sept. 14)
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Discussion:

Outdoor Wood Burning Practices

Topic 1: Neighbor – to – Neighbor Complaints

- Jurisdictional Issues – Whom Enforces?
- Regulatory Issues – When and How Enforced?

Discussion:

- Previous discussions from past meetings regarding residential complaints led to potential solutions such as creating local ordinances. The issues regarding enforcement and new regulations were discussed.
- The New Jersey Air Pollution Control Act was reviewed to see if potential local ordinances could be passed. It was explained that municipalities are preempted from passing new ordinances for air pollution control and that there is a pre-1995 grandfather clause to which 2 ordinances apply.
- The majority of the complaints are referred to County Health Departments who are authorized by the NJDEP to enforce state air quality statutes and regulations, as in the Air Pollution Control Act. The majority of the complaints are for emissions from commercial sources and not from residential wood burning.
- The current options for resolving neighbor-to-neighbor complaints that were outlined include changing the current legislation, which would require legislative and governor support and potentially lead to more changes that were unsolicited, or civil litigation between the neighbors (no health or environmental agency involved).
- Local health departments under the health codes may have the authority to enforce nuisance complaints.
- It was suggested that the state or local health departments be given the authority to require a homeowner to fix or upgrade their wood stove, fireplace insert, or fireplace to resolve a neighbor-to-neighbor complaint.

Conclusion: The discussion resulted in 4 main recommendations:

1. Health departments notify NJDEP regarding complaints and NJDEP will track and evaluate data. The data will be used to support local action under nuisance codes.
2. Expand Subchapter 5 to address residential emissions of PM_{2.5} and include retrofit requirements in Subchapter 4 (?).
3. Implement an all health department/all NJDEP hotline.
4. Amend the New Jersey Air Pollution Control Act to allow for local bans on outdoor wood burning at the municipal level and to provide the authority to require homeowners to upgrade their wood stove or fireplace to resolve an odor complaint.

Action Items/Person(s) responsible/Deadline: None

Topic 2: Public Education:

- Banning Wood Burning on Days of Forecast High Ozone / Particle Days
- At Time of Purchase (e.g.; brochures, instructions)
- Other?

Discussion:

- The following suggestion was made at a previous meeting:
 - Seasonal/air quality-related bans on wood burning on high ozone/unhealthful air quality days (akin to ban/restriction on lawn watering during a drought emergency)
 - Enforcement:
 - Ozone Action Alerts
 - Press releases
 - Education and Outreach
 - Non-regulatory approach?
 - General advisory: Education and Outreach pamphlets with manufacturer/sellers at time of sale – possibly distribute through ANJEC
 - Non-traditional approaches:
 - Avenues and partners: Daycare centers, schools (PTA/PTO), hospitals, community centers, Scouts, restaurants, ANJEC
 - (Local Information Network & Communications System) LINCS: County advisories to the above
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- partners (Department of Health network) could be used to notify people of unhealthy air quality.
- Use LINCS epidemiologist to evaluate and correlate data on air quality to wood burning complaints with adverse health impacts.
- NJDEP data correlating hospital admissions (asthma) to poor air quality days (use as the basis for local/county health department action)
- Flashing signs on roadways: Add messages discouraging open burning, health impacts and reduced activity on high ozone days

- A concern was raised in regards to announcing restrictions on wood burning appliances in that the announcements could be promoting or marketing the appliances.

Conclusion: The discussion resulted in the following recommendations:

1. Education and Outreach: Non-traditional avenues and partners should be investigated (see discussion notes).
2. Education to towns about these appliances to see if they are covered by existing zoning regulations (see Topic 4)
3. Require an overall standard (see Topic 3) and promote a daily advisory

Action Items/Person(s) responsible/Deadline: None

Topic 3: Chimeneas, Fire Pits, Outdoor Wood Boilers (All outdoor wood burning appliances)

Discussion:

- In general, outdoor wood burning units were recognized as a cumulative problem and suggestions for controlling emissions on all units were discussed.
- Require equipment standards, such as New Source Performance Standards, for outdoor units.
- Potential solutions for this type of equipment included a discussion on federal regulation. It was unknown if the EPA would be addressing standards for outdoor equipment similar to the new source performance standards for wood heaters and fireplace inserts.
- Local authority and enforcement was raised as a potential solution: Engage ANJEC (model ordinance), NJDEP, DHS, and the local health and fire departments.
- Public education (see Topic 2)

Conclusion: The discussion resulted in the following recommendations but more investigation is needed to determine a federal approach:

1. State approach: Local zoning ordinance that bans or requires permits for outdoor wood burning in certain densities/types of development
2. Regulate fuel source (such as Paraffin vs. wood or natural gas vs. wood)
3. Non-regulatory Education and Outreach: (see Topic 2)
4. Equipment standard and daily advisory (see Topic 2)

Action Items/Person(s) responsible/Deadline:

- Potential additional types of wood burning units to be addressed under new federal regulations – [Ray](#)

Topic 4: Outdoor Wood Boilers (OWBs)

Discussion:

- Outdoor wood boilers were discussed separately because the emissions and technology is not clearly understood but they are becoming an increasing air problem in the Northeast.
- The same options were presented for OWBs as were presented for all outdoor wood burning appliances.
 - Potential action to control emissions:
 - Ban?
 - New Source Performance Standards?
- Current action: There are currently no controls for the units but research is being conducted by NESCAUM (a regional organization) to quantify their emissions.
- Public education (see Topic 2)

Conclusion: More information needs to be gathered before making any further suggestions on these units specifically. However, two recommendations could be made:

1. Education to towns about these appliances to see if they are covered by existing zoning regulations. (parallels the public education/education and outreach program discussions under Topic 2)
 - Also, see the conclusion section under Topic 3
2. Potential standards for these units should be developed by a regional agency or by the USEPA.

Action Items/Person(s) responsible/Deadline:

- Look into the NJDEP contributing money to the NESCAUM study – [Ray](#)
- Who makes OWBs? Who sells them? – [Frank](#)
- What is EPA doing? – [Ken](#)
- Are wood boilers a local health and safety issue? Fire hazard? (Zoning/health/safety issues) – [Laura](#)

Notes:

- (1) Subsequent to this meeting, a petition to the USEPA administration was developed by many states, including New Jersey, asking for the USEPA to develop national standards for OWBs.
- (2) Subsequent to this meeting, information was provided to NJDEP about Connecticut's approach to OWBs. Recent legislation limits the size of the property and the distance to property line upon which an OWB could be placed. This 'stopgap' legislation was passed as an interim control measure until standards could be developed for OWB emissions.

Topic 5: Subchapter 2: Control and Prohibition of Open Burning:

- NJDEP Permitting Changes
- NJDEP Regulatory Changes

Other outdoor wood burning activities

Discussion:

- Subchapter 2 was explained as it currently exists.
 - The Division of Parks and Forestry issues the permits for open burning of plant life and the Division of Air Quality Management issues permits in cases of hazardous materials and emergencies (e.g., decommission explosives on military bases)
 - Enforced by: NJDEP and CEHA agencies
- A question was raised with respect to the air emissions from the open burning category: The 2002 inventory is not representative of normal conditions because the data was skewed by a large Pine Barrens wildfire. Therefore, new emissions data should be reviewed to determine how much pollution is coming from residential burning compared to open burning.
- Open burning permits for some agricultural lands and activities are issued instead of requiring removal and recycling of the vegetative waste due to economical restrictions and tradition (how it always has been done).
- General Recommendations:
 - a) Expand permit conditions to prohibit burning on high ozone/poor air quality/high temperature days.
 - b) Remove items that can be commercially sold and/or recycled before open burning.
 - c) Regulatory change to Subchapter 2:
 - New restrictions on issuance of open burning permits
 - Restrict issuance for all but expressly authorize activities:
 - Limit to farmers who are farmland exempt (>5 acres)
 - Specify that only not-for-profit agencies may apply for permits.
 - Limit to address severe infestation only.
 - d) Regulate sources that are not regulated by Subchapter 2 like residential fire pits.
- The following sections in Subchapter 2 were discussed at length. The category was explained and summarized. Ways to improve the category as discussed are outlined below.
 - i) 7:27-2.6 Prescribed burning
 - See 'General Recommendations'
 - ii) 7:27-2.7 Emergencies
 - Decision: No changes needed
 - iii) 7:27-2.8 Dangerous material
 - Decision: No changes needed
 - iv) 7:27-2.9 Herbaceous plant life and hedgerows
 - Limit to maximize agriculture production (for defined period of time/prohibition of alternate use for specific period of time)

- Not ok for developments – limit where this provision could be used.
- No clearing of mature trees (specific diameter?) (enforcement issue)
- v) 7:27-2.10 Orchard prunings and cullings
 - Promote recycling, financial incentives for alternate methods
 - Department of Agriculture should duplicate agricultural Best Manufacturing Practices (BMP) for reuse of material that would otherwise be burned (applicable to farming and landscaping, too)
- vi) 7:27-2.11 Land clearing
 - See the discussion under hedgerows (7:27-2.9) as the same restrictions for agricultural use should apply.
- vii) 7:27-2.12 Special permit
 - See previous discussion on limits
 - Restrict by size, when, (e.g., high ozone days, etc.), fuel source
 1. Limit # of special permits or for amount of burning: issued by household, county, region/# of acres in a given time period (Permits already have limits on when they can burn)
 2. Ban open burning during the summer months except for emergency/prescribed burning (e.g., May – Sept.)
- viii) 7:27-2.13 Fees
 - Increase fee for permit as disincentive for burning
 - Correlate the fee to the cost of analysis and processing

Conclusion: See recommendations outlined in the discussion.

Action Items/Person(s) Responsible/Deadline:

- Existing Department of Agriculture permit recommendations – [Ferdows \(M. Ali\)](#)
- Information on prevalence of activity, existing guidance, BMPs, SCS activity (enforcement) – [Ferdows \(M. Ali\)](#)

Wrap-up

- Next meeting: Restaurants and other sources
- Next steps after meetings:
 1. Draft report (NJDEP)
 2. Review report (workgroup)
 - Assignment: Add to report template: “missing data” – [Laura](#)
 3. Plenary session (NJDEP and all workgroups)
 4. NJDEP review of reports
 5. Implementation?
- All information will be posted on the Homes and Restaurants Workgroup website at http://www.state.nj.us/dep/airworkgroups/home_restaurant_workgroup.html

The Next HR Workgroup Meeting is Wednesday, August 17, 10 AM at NJDEP in Trenton. Room location and conference call logistics are provided on the HR website (see calendar links) and in the meeting agenda.